

Complaint

Page 1 of 10

ORIGINAL

UNITED STATES DISTRICT COURT  
PRO-SE OFFICE  
U.S. COURTHOUSE  
225-CADMAN PLAZA EAST  
BROOKLYN NEW YORK 11201

FRANK ESPOSITO  
2574-STILLWELL AVE.

"I REQUEST A TRIAL"

BROOKLYN NEW YORK 11223

• PLANTIFF •

RIZARRY J.  
BLOOM, M.J.

RECEIVED  
OCT 10 2014  
11:14 AM JD  
PRO SE OFFICE

NATIONWIDE MUTAL FIRE INSURANCE COMPANY  
FLOOD PROCESSING CENTER

P.O. BOX 2057 KALISPELL MT. 59903-2057

• DEFENDANT •

CV 14-6019

ON OCT 29, 2012 I WAS IMPACTED BY  
SUPER STORM SANDY. I HAD BEEN PROPERLY  
INSURED WITH FLOOD INSURANCE FROM  
NATIONWIDE. THE AGENT THEY SENT WAS VERY  
ABRUPT, LEAVING ME VERY UNSURE OF HIS  
INTENTIONS. I WAS TOLD THAT HE WOULD GET  
BACK TO ME AND THAT I SHOULD PREPARE A  
LIST OF LOST CONTENTS. HE ALSO COMPLETELY  
INSPECTED ALL SIDES OF MY BUILDING CONFIRMING  
THE OCCUPANCY AS TWO FAMILY NOT A ONE FAMILY  
AND BASEMENT. IVE BEEN INSURED AS A TWO  
FAMILY FOR YEARS. THE SECOND AGENT NOT  
INSPECTING ALL SIDES OF BUILDING REVERSED THE  
DECISION TO A BASEMENT & ONE FAMILY.

I APPEALED BY LETTER TO THE FEDERAL ENERGY MANAGE  
AGENCY  
I AM SEEKING RESTITUTION FOR INTERIOR AND CONTENTS  
DAMAGE TO MY FIRST FLOOR IN THE SUM OF \$100,000

OCT 10, 2014

Frank Esposito  
718-946-6519

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
In re: [illegible]  
[illegible]

EXHIBIT

BLOOM, M.J.

1100-4170

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re: [illegible]  
[illegible]

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

EXHIBIT

5-4308

3072  
20610

7013 0600 0002 1440 0969

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)  
For delivery information visit our website at [www.usps.com](http://www.usps.com)  
DHS VA 20598 **OFFICIAL USE**

Postage	\$ 1.12	0302
Certified Fee	\$3.10	12
Return Receipt Fee (Endorsement Required)	\$0.00	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 4.22	12/10/2013

Sent To  
Street, Apt. No., or PO Box No.  
City, State, ZIP+4

**FEDERAL EMERGENCY MITIGATION DIRECTORATE  
FEDERAL INSURANCE ADMINISTRATION  
1800 SOUTH BELL STREET  
ARLINGTON VA 20598-3010**

PS Form 3800, August 2006 See Reverse for Instructions

ide Mutual Fire Insurance Company  
Insurance Processing Center  
2057; Kalispell, MT 59903-2057  
10) 759-8656 Fax: (866) 528-3252/3205

RE:Insured : Esposito, Frank  
Property Add: 2574 Stillwell Ave  
Brooklyn, NY 112235805  
Policy # : 50515461322012  
Date of Loss: 10/29/2012  
Reference No: 50515461322012

Dear Frank Esposito:

We have reviewed the Independent Adjuster's detailed report which indicates the covered contents damages are less than your contents deductible. Because the damages are below your deductible, we will be unable to make any payment on your contents claim, pursuant to the Standard Flood Policy:

VI. DEDUCTIBLES

- A. When a loss is covered under this policy, we will pay only that part of the loss that exceeds your deductible amount, subject to the limit of liability that applies. The deductible amount is shown on the Declarations Page.

However, when a building under construction, alteration, or repair does not have at least two rigid exterior walls and a fully secured roof at the time of loss, your deductible amount will be two times the deductible that would otherwise apply to a completed building.

- B. In each loss from flood, separate deductibles apply to the building and personal property insured by this policy.

The Standard Flood Insurance Policy is a federal policy under the jurisdiction of the federal government issued pursuant to the National Flood Insurance Act of 1968 and applicable federal regulations in Title 44 of the Code of Federal Regulations, Subchapter B.

If you do not agree with our decision to deny your claim, in whole or in part, Federal law allows you to appeal that decision within 60 days of the date of this denial letter. Your appeal must be in writing and include: a copy of this letter, a copy of the completed Proof of Loss form you submitted to the insurer, your written statement of the basis for the appeal and all the documentation which supports your written statement. The appeal must be sent to:

Federal Emergency Management Agency, Mitigation Directorate, Federal Insurance Administrator, 1800 South Bell Street, Arlington, VA 20598-3010.

You should not appeal your claim or any part of it, unless it has been denied by this letter. If you do and your claim has not been denied, in whole or in part, FEMA will return your appeal to you for not complying with their regulation. If you disagree with your insurance settlement and the item of your disagreement is not denied by this letter, you should submit a detailed request with the documentation which fully supports your position directly to

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us for consideration as a supplemental claim. The FEMA appeals process cannot overturn a denial when coverage is not afforded by the Standard Flood Insurance Policy. Federal assistance may be available to you if your flood loss is within a city or county included in a disaster declaration by the President of the United States. In such cases you may contact FEMA at (800) 621-3362 or register online at <http://www.fema.gov>.

R. Suit Against Us

You may not sue us to recover money under this policy unless you have complied with all the requirements of the policy. If you do sue, you must start the suit within 1 year after the date of the written denial of all or part of the claim, and you must file the suit in the United States District Court of the district in which the insured property was located at the time of loss. This requirement applies to any claim that you may have under this policy and to any dispute that you may have arising out of the handling of any claim under the policy.

If you have any questions, please call (800) 759-8656.

Waiving none, but reserving all rights and defenses under the policy, we remain,  
Sincerely,

Caleb Skinner  
Nationwide Mutual Fire Insurance Company  
Flood Claims Processing Center

cc: Ira S Ilowite

2 28 17

~~54/10~~  
4/26/10

To FEMA MITIGATION UNIT DIRECTOR  
FEDERAL INSURANCE ADMINISTRATOR

1800 South Bell Street  
Arlington Virginia 20598

My name is Frank Esposito. I reside at 2574 Stillwell Ave. Brooklyn N.Y. 11223

P Tel 718 946 6519, for a time of 26 years.

I've occupied the entire building for the entire time, from day one of the purchase as I have enclosed documents showing that I purchased this property as a two family dwelling and insured as such. The building has been insured as a two family dwelling with Nationwide Mutual Fire Insurance homeowners from the beginning, Feb. 1988. I've supplied documentation in proof of my stating. I also insured with Nationwide my flood insurance policy for many years, and also disclosed the nature of my building below grade not ground as I have a full ceiling height in a walk-in situation, not lower than all surrounding ground and adjacent properties, as a two family documented from state and city as I have enclosed with this letter.

I was directly hit by the wrath of Sandy's path on Oct. 29 2012. The water level in the lower apartment exceeded 30" at its peak and destroying most of my personal property. Upon inspection of my premise by the adjusters of Nationwide Mutual they concluded that I did not meet the required criteria of a two-family dwelling and declared as a basement, because of an off street decline. I explained my position that as built it was never a basement but as described in attached documents it was a two-family dwelling. In my initial signing on for flood insurance, I disclosed the situation of my property and continued year after year to be insured as a two-family dwelling, as to the building being below grade, not ground was created some 80 years ago by street raising to accommodate sewer installations. The entire area not just my block had the street raisings, the area outside of Coney Island for a couple of square miles was considered a low lying area of Brooklyn. This caused a condition as to most houses were below grade not ground as required as the lower level had to be above ground as I disclosed from the beginning. In the area there were no excavations creating basements. This situation created our neighborhood to be in a Valley with the exception of city streets. Block after block there were erected retaining walls to substantiate the streets at the front of all properties in the area. I again explained and disclosed the condition of my home in this area. I have documentation supporting my claim, In 1928 there had been an inspection of my now owned property declaring that this dwelling had been occupied as a two-family, the city of N.Y. had acknowledged the property was a two family and was continually occupied as such ((document enclosed) I have a neighbor who is 87 years old still resides, I have a signed document supporting my claim as she remembers when you walked directly into the lower level with no street raising, no retaining wall in front of property creating a decline. The purchase of their home was by her parents. She also states and declares that the neighbors who lived in the second apartment did so for 25 to 30 years and had vacated as they bought a home down the street on the same block and until recently resided until they sold to builders.

In conclusion to date I still pay tax to the city of N.Y., and the state registration reads two-family occupied up to date dwelling. I have been on total disability since 2000 and cannot work. I have created many hobbies for myself. I have collected many tools to create projects and past my time. These items were in my lower level as were many of prized possessions that were destroyed by Sandy's destruction.

Thank you

Frank Esposito

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**Brooklyn  
Union**

1997011

0382295242513600000000

\*\*C 038

**GRACE ESPOSITO  
2574 STILLWELL AVE  
BROOKLYN NY**

11223-5805

 \* Account Number  
 (22952-42513)

**Amount Due  
NONE**

 Please mail this part of bill with your payment.  
 Write your account number on check.

 Make checks payable to  
 Brooklyn Union.

Detach Here

Service To	Account Number	Next Meter Reading	Bill Date
GRACE ESPOSITO 2574 STILLWELL AVE BROOKLYN NY 11223	22952-42513		Jan 10 '97
1FL	Rate 1/A Res. Non-Heat	For Service or Information Please call (718) 643-4050	

**CURRENT BILL ITEMIZED**

In 114 days you used 27 therms:

Aug 24 1995 reading REMOVE	1143
Aug 02 1995 reading ESTIMATED	1142
CCF Used for METER# 000173375	1
Nov 24 1995 reading FINAL	0025
Aug 24 1995 reading SET	0000
CCF Used for METER# 002950442	25

Total CCF used 02 meters 26

Thermal Factor x1.0313

Total therms used 27

Your Cost is determined as follows:

Minimum Charge	\$39.22
(First 11.4 therms or less)	
Next 15.6 @ \$1.2037	18.78

LOCAL CHARGES \$58.00

 COST OF GAS & ADJUSTMENTS  
 @ \$-.00902 /therm CREDIT - .24

 MTA & N.Y. State Surcharges .42  
 4.0000 % Sales Tax 2.33
**CURRENT CHARGES \$60.51****SUMMARY OF CHARGES**

Current Gas Charges	\$60.51
Amount Due Last Bill	121.67
Late Pmt Chg Credit	-.67
Late Pmt Chg Credit	-1.04
Late Pmt Chg Credit	-1.05
Late Pmt Chg Credit	-1.41
Late Pmt Chg Credit	-1.43
Late Pmt Chg Credit	-1.80
Gas Charges from 08/02/1995 to 12/26/1996 CANCELLED	-179.07

**Balance In Your Favor \$-4.29  
(DO NOT PAY)**
*Supplied  
Mechanical*
**IMPORTANT MESSAGES**

This is your final bill for gas service at the above address.

 Your gas meter was changed during this billing period. As shown in the  
 Current Bill Itemized section, your consumption includes the amount of gas  
 used on both the old and new meters during the billing period.

 Based on a review of your account, a prior bill(s) has been cancelled.  
 Please see details in the Summary of Charges section. The corrected  
 charges are detailed in the Current Bill Itemized section.

*LI 11/10*



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\*\*C 038

GRACE ESPOSITO  
2574 STILLWELL AVE  
BROOKLYN NY

11223-5805



Account Number

22952-42613

(LOWER)

Please Pay  
Upon Receipt  
119.89

Please mail this part of bill with your payment.  
Write your account number on check.

Make checks payable to  
Brooklyn Union.

Detac

Service To: GRACE ESPOSITO 2574 STILLWELL AVE BROOKLYN NY 11223	Account Number: 22952-42613	Next Meter Reading	Bill Date: Jan 10 '99
2FL	Rate: 1A Res Non-Heat	For Service or Information Please call (718) 643-4050	

## CURRENT BILL ITEMIZED

In 366 days you used 0 therms:

Nov 14 1996 reading FINAL 0014  
Nov 14 1996 reading ESTIMATED 0014  
CCF Used for METER# 002950439 0

Thermal Factor  
Total therms used  $\times 1.0331$   
0

Your Cost is determined as follows:

Minimum Charge \$129.89  
(First .0 therms or less)

LOCAL CHARGES \$129.89

COST OF GAS & ADJUSTMENTS  
@ \$.09219 /therm .00

MTA & N.Y. State Surcharges .94  
4.0000 % Sales Tax 5.23

CURRENT CHARGES \$136.06

## SUMMARY OF CHARGES

Current Gas Charges \$136.06  
Amount Due Last Bill -16.17

Please Pay Upon Receipt \$119.89

## IMPORTANT MESSAGES

This is your final bill for gas service at the above address. Thank you in advance for prompt payment.

Have you received your copy of Brooklyn Union's AT Home Services catalog? Now you can purchase products for the home like shower massagers, air cleaners, surge protectors and much more! Just call (718)403-3300 to get your free catalog.

7 of 10  
10/10/14

1 October 2013

De Santis Family  
2572 Stillwell Ave.  
Brooklyn, NY 11223

To Whom It May Concern;

My name is Rose De Santis. I reside at 2572 Stillwell Ave. My home is adjacent to Mr. Frank Esposito at 2574 Stillwell Ave.

Our homes are side-by-side but not attached. I am 86 years old and I was Born at 2572 Stillwell Ave.

My Father & Mother purchased this home in the early 1900's. This home had been a two-story walk in. The city after removing the Trolley Car means of transportation decided to install sewers. They required higher street levels thus creating valleys for the homes in the neighborhood, and requiring a 4-step walk down, as all the homes had retaining walls to support sidewalks and street elevations above the grade of existing homes. This practice can be seen in a complete 1-mile radius from my home.

Regards,

*Rose De Santis*

Rose De Santis

8 of 10



ATTACHED FIND A COPY OF CERTIFICATE OF OCCUPANCY # 18045  
ISSUED ON 3/12/1923 FOR A ONE FAMILY DWELLING.  
WATER DEPARTMENT INSPECTION DATED 9/5/1928  
OCCUPIED AS A TWO FAMILY DWELLING.  
SHOWS PREMISES

-----  
CERTIFICATE OF OCCUPANCY SEARCH

2574 STILLWELL AVENUE  
BROOKLYN  
BLOCK: 6919  
LOT: 45  
DIER 860111KSA  
03/23/87

HOME OFFICE  
44 Court Street  
Brooklyn 11, N.Y. 11201  
(718) 237-0643  
BRANCH OFFICES  
16 E. Old Country Road  
Hicksville, N.Y. 11801  
(516) 931-5656  
3 Baker Avenue  
White Plains, N.Y. 10601  
(914) 428-1538  
39 Woodhull Avenue  
Riverhead, N.Y. 11901  
(516) 733-2511

Barrella  
Research  
Service Corp.



8/10/8

9/2/10

CURRENT PREMIUM DISCOUNTS

\$32.00

PROTECTION DEVICE

IF YOU INSURE YOUR AUTO WITH NATIONWIDE, WE MAY BE ABLE TO  
REDUCE YOUR HOMEOWNERS INSURANCE COST BY \$34.00 AT THIS  
RENEWAL. PLEASE CONTACT YOUR AGENT FOR DETAILS.

NATIONWIDE MUTUAL FIRE INSURANCE CO. DECLARATIONS  
HOMEOWNERS POLICY TERM CONTINUOUS RENEWAL  
POLICY NO. 66 MP 661-784 INCEPTION FEB 24, 1992  
EXPIRATION FEB 24, 1993

CHANGE EFFECTIVE FEB 24,  
NON-ASSESSABLE

POLICY PERIOD BEGINS  
12 01 AM STANDARD TIME  
AT THE RESIDENCE PREMISES

FIRST MORTGAGEE AND  
MAILING ADDRESS

5 NAMED INSURED AND  
RESIDENCE PREMISES

CITIBANK  
2170 MC DONALD AVE  
BROOKLYN  
NY 11223

FRANK ESPOSITO  
2574-76  
STILLWELL AVE  
BROOKLYN  
NY 11223

TO REPORT CLAIMS, CALL 1-800-421-3535

\*\*\*\*\*SPECIAL NOTICE\*\*\*\*\*

THIS POLICY IS SIMILAR TO THE HO-3 POLICY ISSUED BY MOST OTHER  
COMPANIES -- BUT WITH SEVERAL UNIQUE FEATURES AND ADDED BENEFITS  
INFLATION PROTECTION COVERAGE IS APPLICABLE. INDEX 658.1 BOECKH RESID CONST INDEX  
We will provide the insurance described in this policy in return for the premium and compliance with all applicable policy provisions.  
See policy for details regarding the SPECIAL LIMITS OF LIABILITY AND ADDITIONAL COVERAGE FEATURES.

10/10

**Mortgage Loan Commitment****CITIBANK**

6 Month ARM I (Monthly)

U-BUY REALTY I

**MORTGAGE LOAN COMMITMENT**

Date: 03/05/87

Application No.: 058M077

Premises: 2574-76 STILLWELL AVENUE  
BROOKLYN, NY 11223

Type of Dwelling:

☐ Condominium☐ Single-Family☒ Two-Family☐ Three-Family☐ Four-Family

Type of Loan:

☒ Purchase Money☐ Ref

Loan Category

☐ Bulk☒ Non☒ Mortgage Power☒ Fast

Dear FRANK ESPOSITO

(H) 718/998-

(B) 718/373-

We ("Citibank") are pleased to advise you that your application for a loan (the "Loan") has been approved. The Loan is evidenced by a note (the "Note") and secured by a first mortgage (the "Mortgage") on the captioned dwelling (the "Premises"). The Loan will only be made (the "Closing") if you meet all of the terms and conditions in this Commitment letter and all attached riders. The Loan will be a six month adjustable rate loan, which is described in the Adjustable First Mortgage/Co-op Loans Information Statements (the "Loan Statement") given to you at the time you requested application, the provisions of which are to be considered included in this Commitment letter.

1. **Loan Amount** The amount of the Loan (the "Principal") shall be \$ 100,000.00
2. **Loan Term** The term of the Loan shall be 30 years.
3. **Interest Rate** The interest rate on the Loan shall be either 9.875 % per annum (the "Commitment Rate" or the interest rate chosen by you pursuant to Paragraph 14. Interest shall be computed on the basis of a 360-day year.
4. **Loan Origination Fee** The Loan origination fee shall be either \$ 1,000.00 (the "Committed Loan Origination Fee"), which represents 1.0000 % of the Loan, or the Loan Origination Fee chosen pursuant to Paragraph 14 and shall be paid by you at the Closing by bank or certified check payable to Citibank, N.A.
5. **Base Index Value** (A) The "Index Value" shall mean the monthly average of weekly average auction rates of United States Treasury bills with a maturity of six (6) months, as published in the *Federal Reserve Bulletin* and made available by the Federal Reserve Board in Statistical Release G.13(41) the first week of each month.  
(B) The base Index Value shall be either 5.530 % (the "Committed Base Index Value" or the base Index Value chosen by you pursuant to Paragraph 14.
6. **Monthly Payments** (A) The monthly payments of principal and interest shall be \$ 868.36 if you choose the Committed Interest Rate. If you choose the alternate interest rate described in Paragraph 14, your monthly payments will be recomputed based on that alternate rate. In either event, the amount of your monthly payments may change in the manner set forth in Paragraph 16.  
(B) Monthly payments of principal and interest will be payable on the first day of the second calendar month after the Closing and on the first day of each month thereafter. If the Closing occurs on a day other than the 31st day of a month, interest only from the Closing to the first day of the following calendar month will be payable with the first regularly scheduled monthly payment.
7. **Attorney's Fees** At the Closing you must pay Citibank's attorney's fees in connection with the Loan in the amount of \$ 345.00. If Citibank's attorney is required to perform any extraordinary services in connection with the Loan or if the Loan does not close on the date scheduled, you may pay additional attorney's fees.
8. **Insurance** (A) At the Closing, you shall deliver to Citibank a fully paid original fire insurance policy issued by a company acceptable to Citibank in an amount equal to at least \$ 139,000.00 naming Citibank, N.A., its successors and/or assigns as first mortgagee. Paid receipt for the policy must accompany the policy. Thereafter you shall maintain fire insurance which must be satisfactory to Citibank in all respects and in such amounts as may be necessary to ensure that neither you nor Citibank will be deemed to be co-insurers.

Flood hazard insurance required

(B) The Federal Emergency Management Agency has designated certain areas as "special flood hazard areas." If the box heading this Paragraph has been checked, Citibank

238-7700

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